

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MAURICE WILLIAMS,)
)
Plaintiff,)
)
v.)
)
NATHANIEL BURKEMPER, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

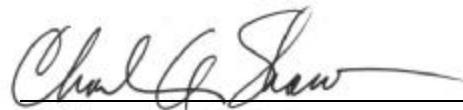
This matter is before the Court on prisoner plaintiff Maurice Williams' "Motion For Judgement [sic] To The Plaintiff For Failure of Defendant To Answer Pursuant To Rule 12(a)." [Doc. 12]. This motion will be denied without prejudice for the following reasons.

By Memorandum and Order dated March 2, 2007 [Doc. 6], the Court granted plaintiff leave to proceed in forma pauperis, and ordered that the Clerk issue process as to defendant Burkemper and that Burkemper reply to the complaint within the time provided by the applicable provisions of Rule 12(a), Federal Rules of Civil Procedure. See Mem. and Order of Mar. 2, 2007 at 6. The docket reflects that the Clerk subsequently issued summons for defendant Burkemper and forwarded it to the United States Marshal for service. The docket does not reflect that a return of service has been filed.

Rule 12(a)(1)(A), Fed. R. Civ. P., which is applicable here, states that a defendant shall serve an answer “within 20 days after being served with the summons and complaint.” There is no proof in the record when defendant Burkemper was served, or that he has yet been served. Therefore, plaintiff’s motion for default judgment is premature and should be denied without prejudice.

Accordingly,

IT IS HEREBY ORDERED that Williams' "Motion For Judgement [sic] To The Plaintiff For Failure of Defendant To Answer Pursuant To Rule 12(a)" is **DENIED**, without prejudice. [Doc. 12]



CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 2nd day of April, 2007.